

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

(1) DEMIAH JOYCE TORIX and)
(2) AUSTIN L. TORIX,)
)
Plaintiffs,)
)
v.)
)
(1) UNITED STATES OF AMERICA,)
)
Defendant.)

Case No. 19-cv-086-RAW

**ORIGINAL COMPLAINT FOR DAMAGES UNDER THE
FEDERAL TORT CLAIMS ACT**

COME NOW the Plaintiffs, Demiah Joyce Torix and Austin L. Torix, husband and wife, by and through their attorney James E. Frasier, before this court and complain of the United States Government as follows:

I.

JURISDICTION, VENUE, AND CONDITIONS PRECEDENT

1. The Plaintiff, Demiah Joyce Torix, is of Cherokee heritage and she and her husband, the Plaintiff, Austin L. Torix, reside in Tahlequah, Oklahoma, and thus are residents of the Eastern District of Oklahoma.

2. As a member of the Cherokee Nation, the Plaintiff Demiah Joyce Torix is entitled to and does receive medical care and treatment at the facility operated by the Cherokee Nation and known as the Cherokee Nation W.W. Hastings Hospital in Tahlequah, Oklahoma, and provided by the Indian Health Service of the United States Government, and within the Eastern District of Oklahoma.

3. The claims herein are brought against the United States pursuant to the

Federal Tort Claims Act (28 U.S.C. § 2671, et seq.) for money damages as compensation for personal injuries and loss of consortium that were caused by the negligent acts and omissions of the agents and employees of the United States Government.

4. The Plaintiff has fully complied with the provisions of 28 U.S.C. § 2675 of the Federal Torts Claim Act in that the claims of the Plaintiffs were properly filed on or about 19 April, 2018, and no settlement has been achieved nor denial.

II

EVENTS FORMING THE BASIS OF THE CLAIMS

5. On or about the 6th day of February, 2018, the Plaintiff Demiah Joyce Torix presented herself at the emergency room of the Cherokee Nation W.W. Hastings Hospital in Tahlequah, Oklahoma. The Plaintiff, Demiah Joyce Torix, had long suffered from diabetes and on her presentation it was determined that a central venous line (CVL) should be placed into her right internal jugular vein. Said CVL was in fact placed, but negligently and improperly placed.

6. Subsequent to the improper placement of the CVL, a diagnostic radiology examination recommended that the CVL be replaced or repositioned and “not in an artery”.

7. Following the recommendation of the radiologist’s report, the CVL was in fact retracted and relocated, and again placed in an improper position and in a negligent manner.

8. Shortly thereafter, it was determined that the Plaintiff was displaying signs of a stroke. The stroke occurred as a direct result of the improper retraction and/or replacement of the improperly placed CVLs.

III

DEMAND FOR RELIEF

9. As a direct and proximate result of the negligent placement of the CVL, the Plaintiff Demiah Joyce Torix has suffered personal injury past and future damages in an amount of \$1,000,000 and the Plaintiff, Austin L. Toris, has, by virtue of his loss of consortium, society and companionship, suffered a loss in the amount of \$250,000.

Respectfully submitted,

FRASIER, FRASIER & HICKMAN, LLP

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